Later References

General and Revenue Secretariat.

Serial Nos. 1 to 5

Part B for. June 1931.

SUBJECT

Judgment delivered in Cr. appeal no. 21 of 30-31 on the file of the High Court (Govt. of Mysore Vs Hanumantha Ra
The accused being convicted, was sentenced to pay a fine of Rs 5/- and in default to suffer 2 days S.I.

Lr no 611 dated 31st March 1931 judgment from the Govt Advocate intimating that in Cr. appeal no 21 of 30-31 on the file of the H. Ct (Govt of Mysore vs Hanumantha Rao) was delivered, the accused being Convicted and sentenced to pay a fine of Rs 5/- on each Count, in default to suffer 1 day's S.I.

1) The facts of the Case are briefly described in para 1 of the note to the Lr file 66-30-2. The accused was prosecuted under sec 30 of the Motor Vehicle Rules on the allegation that he as the proprietor of the bus i) did not Carry the 'H' permit, ii) and did not provide for a Conductor in the bus. He was acquitted under sec 245 Cr. P.C. by the ~~Asst~~ Addl Magte Chickballapur. Hence an appeal from the acquittal.

2) Govt. Advocate reports that the accused was Convicted and sentenced to pay a fine of Rs 5/- in each Count in default to suffer 1 day's S.I.

Copy of the judgment may perhaps be awaited.

ISD
4/4

~~Dispensed~~ Yes
Mg
4/4

Letter No 737 dated 16th June 1931 from the Govt. Ad. forwarding a copy of the judgment passed in Cr. Ap. 21/1930-31 on the file of the Ct

Kind reference is invited to para 1 supra.

for perusal.

ISD 19/6.

This case relates to an offence under the Motor Vehicles Regs. The questions involved were

1) whether the owner of a bus is liable for non carrying of the 'H' permit in the bus

2) whether he is liable for not providing a duly licensed conductor under rule 27 A.

On point (1) the High court observe that rule 27 (H) is not definite as it does not refer to 'H' permit but only to 'G'. But since, in this particular case, the owner was actually travelling in the bus and stated that he had delivered the 'H' permit to the driver & failed to prove this statement, he was held liable for non carrying of the 'H' permit.

this has been as anticipated
Reference paras 6 & 7 in the Cll
placed below

Submitted for perusal

Secy) DNP 19.6.

Ch Secy) DNP 20/6

Second Member 9216/31

DNP 20/6

Ken
23/6/37.

For perusal. DNP 23/6

Asst Secy
Protector } DNP
Within Compass

Seen. Thanks. DNP 24/6.

FROM

M. RAMACHANDRA RAO, ESQ., B.A., B.L.,
GOVERNMENT ADVOCATE IN MYSORE,
BANGALORE.

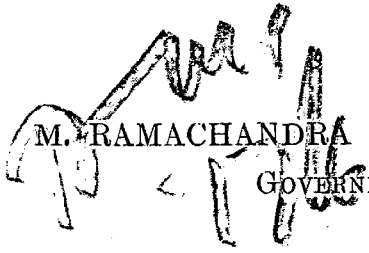
To

The Secretary to the Government
of H. H. The Maharaja of Mysore,
Law Department, BANGALORE.

SIR,

With reference to Government Order No. P.2977-8/Law. 66-30-2 dated the 26th November 1930, I have the honor to state that Criminal Appeal No. 21 of 1930-31 on the file of the High Court of Mysore, (Government of Mysore, VS. Hanumantha Rao) came on for final disposal this day, and Judgment was pronounced - allowing the appeal by Government. The accused has been convicted and sentenced to pay a fine of Rs.5/- on each count, in default to suffer one day's simple imprisonment.

2. A copy of the Judgment has been applied for and the same will be forwarded to Government as soon as it is received in this office.



M. RAMACHANDRA RAO, ESQ., B.A., B.L.,
GOVERNMENT ADVOCATE IN MYSORE,
BANGALORE.

The Secretary to the Government
of H. H. The Maharaja of Mysore,
Law Department, BANGALORE.

In continuation of this office letter No.611, dated the 31st March 1931, I have the honor to forward herewith, for the information of Government, a copy of the Judgment passed in Criminal Appeal No.21/1930-31 on the file of the High Court of Mysore, (Government of Mysore, VS. Hanumantha Rao).

I have the honor to be,
Sir,
Your most obedient servant,

M. Ramachandra

Present.

Rajadharmapravina

C.S. Doraswami Iyer, Chief Justice,

and

Mr. Justice D.K. Rama Rao.

CRIMINAL APPEAL No. 81 of 1930 - 31.

The Government of Mysore ...Complainant... APPELLANT

Vs.

Hanumantha Rao ... Accused ... RESPONDENT

Criminal appeal against the order of acquittal passed by the Special First Class Magistrate of Chikballapur in Criminal Case No. 412 of 1929-30.

This appeal coming on for hearing on Friday, the 30th day of January 1931, the court delivered the

in question he happened to be travelling in the bus; there was a separate driver. The police asked the accused and the driver to produce the permit H, but they failed to do so. Also, the bus had no conductor. Accordingly a chargesheet was placed against the accused in respect of both the omissions. As regards the first, the accused pleaded that he had given the permit H to the driver. With regard to the conductor, the explanation is that one had been provided, but that as he stayed away on the particular day the driver had brought in his place a Mahamedan boy to act as conductor. There was a Mahomedan boy in the bus; he however was not a licensed conductor. but only a cleaner

The reasons given by the learned Magistrate for acquitting the accused are, that the accused was travelling casually as a passenger, that the prosecution did not prove that the accused did not deliver the permit H to the driver, and that he could not be held liable for the omission or negligence of the driver in regard to both the points. The learned Government Advocate referred to the recent rule 27(H) making the holder of the permit also liable along with other persons. But that Rule refers to permit G and not to H. Nevertheless, it is contended for the prosecution, that irrespective of rule 27(H), the accused who was actually in the bus at the time must be held liable. We are of opinion that the general question of liability of a driver regarding the permit H does not really arise for decision in the circumstances of the present case. The charge is not laid against the driver. It is the accused that is admittedly the holder of the permit H; he expressly stated that he handed it over to the driver. According to the police officer he

questioned

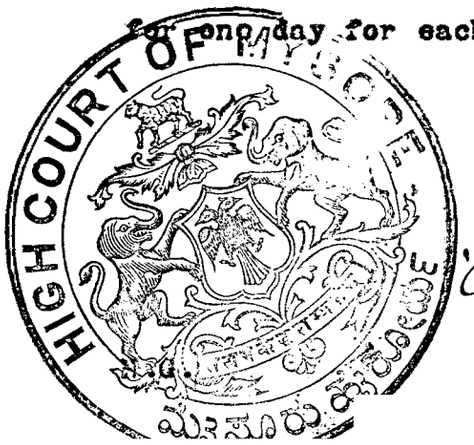
questioned both the accused and the driver but neither of them accounted for its non-production. This being so, the accused who had obtained the permit had to prove that he had delivered it to the driver. The driver has not been examined by him. As a matter of fact condition 7 in permit H requires the permit to be carried in the vehicle. In the case of permit G condition 3 requires that the permit should be carried by the driver: but there is no such provision in the permit H. On the other hand rule 30 makes it obligatory on the owner of the vehicle to take out the permit H. It was therefore incumbent upon the accused to see that the permit H was properly secured and fixed in the bus instead of entrusting it to the driver and running the risk of its loss. The accused has therefore to be held liable as he failed to offer satisfactory explanation or proof for the non-production of the permit H.

As to the absence of conductor also, we do not see how the accused can be exonerated. Rule 27A throws the responsibility in this behalf on the owner. The qualifications of a conductor are duly prescribed by the rules, and a licence has to be obtained for the person selected, so that it is not permissible to put any person that is available in the place of a conductor whose office carries responsibilities. Even assuming that the accused got into the bus casually, as soon as he became aware of the absence of the conductor as required by rules, it was his duty to stop the further progress of the bus.

case we think that a fine of Rs. 5/- under each count will suffice; in default of payment simple imprisonment for one day for each count.

Sd/- C. S. Doraswami
CHIEF JUSTICE.

Sd/- D. K. Rama Rao
J U D G E.



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Registrar

rj